

OGC HAS REVIEWED.

Administrative Officer, Medical Division
Attention: [REDACTED] 25X1A
Office of the General Counsel

18 November 1948

Release

1. Subject release forwarded for comment by your memorandum of 8 November is returned herewith.

2. A Federal employee has recourse to two paths of action in the event he is injured in the course of his employment. (It is assumed here that the employee is required to accept the injections as a condition of his employment and hence the inoculation is given in the course of that employment.) He may accept the benefits provided under the Employees' Compensation Act, or he may sue under the Federal Tort Claims Act. At the present time, his remedies are considered to be elective and he is not entitled to the benefits of both. If he chooses the Compensation Act as the vehicle to recovery, the release would be ineffectual in barring recovery. As a matter of policy - although the statute itself is silent - the Bureau of Employees' Compensation Commission does not recognize the waiver. If he elects the Tort Claims Act, a waiver would be void for want of consideration - which would also be true under the Compensation Act. Although the inoculation may be considered a condition of employment which the employee must presumably accept in order to continue his work, he cannot be required to waive his legal rights to seek compensation for any injury resulting from a negligent injection.

3. For the reasons given above, it is not believed that the enclosed release serves any sound purpose. Although there does not appear to be any strict legal prohibition against requiring an employee to execute the release, it is suggested that the practice be discontinued in view of its futility.

25X1A
[REDACTED]

Encl. 1
Release (Form 37-39)

25X1A

General Counsel: [REDACTED]

Class. Int. Sec.

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